ATTACHMENT A

TO PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION TO STRIKE THE EXPERT REPORT OF STEVEN WOLLACK

Highlighted Version of The Expert Report of Steven Wollack

Exhibit A
Expert Witness Report of
Steven E. Wollack

Expert Report of Steven E Wollack

In the matter of:

CFTC v Moncada

United States District Court (S.D.N.Y.) Civil Action 12-cv-8791.

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I. Qualifications as an Expert.

1. I am currently a Director and member of the CME Group, formerly the Chicago Mercantile Exchange (CME), and have been a member of the CME since 1977 trading commodities and futures for my own account including 21 years on the trading floor and two years as an exempt CTA of a futures fund.
2. I am a licensed attorney admitted to practice in Illinois and have represented CME clearing firms, traders, brokers and customers. I am also an arbitrator for the National Futures Association (NFA) and Finance Industry Regulatory Authority (FINRA).
3. I was First Vice Chairman of the CME from 1989-1990, Second Vice Chairman in 1988, Treasurer from 1986-1987 and a Director of the CME from 1984-1995 and a member of the Executive Committee from 1986-1990.
4. As an Officer, Director and member of the Executive Committee of the CME I was involved in the CME's management, strategic planning and operation.
5. I served as Chairman of the CME Business Conduct and Floor Practices Committees presiding over hearings and appeals relating to trading rules, business and ethical practices of CME clearing firms, members and employees. I also served as Chairman of the CME arbitration committee presiding over disputes between CME clearing firms, members and customers.
6. I have been hired as an expert witness by CME clearing firms, traders and customers having testified in one trial and one NFA hearing. I have been deposed in one case. The trial testimony was June 27, 2012 in the US District Court in Anderson, South Carolina in US v Pearce, Case No. 6:11-cr-02027 and the NFA hearing testimony was on November 20, 2012 in Chicago, Illinois in Conway v Dorman Trading LLC, 10-ARB-120. My deposition was taken on May 3, 2011 in Sonson v MF Global, Inc., U.S. District Court, Northern District of Illinois Eastern Division, No. 1:10-cv-3870.
7. I have not published any articles.
8. I am being compensated at the rate of $450 per hour.
9. Education: Northwestern University Law School, J.D. Law 1966, University of Illinois, B.S. Accounting, 1963
10. CPA Certificate 1963
11. Instructor in Taxation, Roosevelt University 1973-1975

II. Opinion

I have reviewed the pleadings, Expert Report of Hendrik Bessembinder ("Bessembinder"), Exhibits from Deposition of Eric Moncada ("Moncada"), a portion of the CFTC data and CBOT Time and Sales for the eight trade dates ("relevant dates") in the complaint, some of Moncada's Daily Statements for the relevant dates, the October 2009 Monthly Statement and spoke briefly with Moncada. I respectfully reserve the right to update and amend my report should more information become available prior to trial.

A. Moncada's Trading Is Not Manipulative

It is my opinion that Moncada's trading style did not manipulate the market. He actively traded throughout the day, making numerous trades, taking large intraday positions and also overnight positions. On the relevant dates in Moncada's two accounts, a total of 21,658 contracts were traded and 79,560 contracts for the month of October 2009. He is always at risk on his trading and positions. Even on his large orders (200 or more contracts) he matched the best bid or offer 77% of the time (Bessembinder pg.12 para.24) putting himself at risk. Traders who want to manipulate markets or violate trading rules do so with the intent to avoid risk and generally do not take risk greater than potential profit.

The CFTC's alleged manipulative scheme is based upon an assertion that Moncada frequently cancelled large orders without intending them to be executed. This supposedly was done to move the market higher on large buy orders so he could execute his smaller sell orders and to move the market lower on large sell orders to execute his smaller buy orders. If Moncada truly did not intend to be executed, then he would have used computer algorithms and high frequency trading to enter and cancel his large orders to eliminate any risk of execution. A computer algorithm can enter and cancel an order in 2-3 milliseconds (Bessembinder pg. 13 para. 27). Moncada's average manual cancellation time was 2.1 seconds on the charge dates and 4.6 seconds over a

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broader period of time (Bessembinder pg. 7 para. 11). A trade on the Chicago Mercantile Exchange Group's electronic trading system, GLOBEX, can be executed in approximately 6 milliseconds (www.cmegroup.com/advance/#/elements). By entering and cancelling his orders manually, Moncada put himself at risk of being executed by computer algorithms or even manual traders. In fact on the relevant dates he had 2136 contracts executed on his large orders Bessembinder Table 1). This is not an insignificant amount and in most cases he was adding to an existing position thereby increasing his risk in the market. Also, there is no evidence that his large orders caused any erratic price movement in the December wheat contract that basically moved in one tick increments while his larger orders were pending. In fact on some occasions the market went the opposite direction of his large buy or sell orders.

Further, Moncada's trading style of buying and selling thousands of contracts and at times using large orders indicates he relied on a trader's intuition and feel of the market in addition to fundamental and technical analysis. Sometimes large orders may be used to test the strength of a trader's position or direction of the market. When executed on a large order, Moncada did not immediately exit the position but instead held it. He was an active trader trading thousands of contracts per day. At times, active traders such as Moncada put large orders in the market feeling that the market was going in their direction and want to add to their position but only if immediately executed.

One important reason for frequently entering and canceling orders is to obtain time and allocation priority in the execution of his orders. Under the CME's matching algorithms for wheat futures (CME Globex Product Reference) the first order at a price level gets top allocation up to a maximum of 100 contracts, then there is a Pro Rata allocation of all orders at the price level and if the incoming quantity is not satisfied, the remainder is filled using a FIFO allocation.

Thus, if Moncada was the first large order at a price, he would have priority only on the first 100 contracts and then would be filled on a Pro Rata basis and possibly a FIFO allocation. If Moncada was not the first order at a price, then he would only be filled on a Pro Rata basis and would only have partial fills on his large orders. To obtain priority on the first 100 contracts Moncada would have to be the first order at a new price. This would explain frequent entering

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and cancelling orders in order to obtain priority on the first 100 contracts or at least increase his Pro Rata share.

For traders like Moncada there is no upside to leaving a resting order waiting for the market to come back to his price because the dynamics of the market may have changed. If Moncada was trading for the moment then he would want to be immediately executed because he thought the market was going in his direction. If not executed then he would cancel because otherwise if the market would move away from his order and then subsequently come back to that price it might mean that the market was reversing. To avoid this possibility he would cancel his orders. Frequent cancellation would not affect the price because traders would notice, adjust their trading accordingly and ignore frequent cancellations. Traders would be more concerned with large orders that are not cancelled because that would be more indicative of strength. It is for this reason that iceberg orders are used in order to conceal strength in bids or offers.

Moncada may have cancelled large orders more than other traders but frequent cancelling of orders is not a rule violation nor does it indicate intent to manipulate the market. It could be due to the CME's matching algorithms or could be the result of Moncada's aggressive style especially when compared to other traders who are not willing to take the same risk. Position traders or hedgers tend not to cancel large orders as frequently because they want to be filled at a given price regardless of how long it takes. They are more likely to use iceberg orders whereas to Moncada time is more of the essence and not conducive to iceberg orders. I found no evidence that large cancelled orders caused erratic price movement. Sometimes the market went in the direction of the large cancelled orders and at other times it went in the opposite direction.

B. An Examination of Three Large Executed Orders on September 22, 2009, October 6, 2009 and October 27, 2009 Indicates Intent and Willingness To Be Executed.

On September 22nd (Bessembinder pg 21 para. 48) Moncada was long 20 contracts just before the execution of a large buy order at 12:37:02 that increased his position to 437 contracts. He reduced his position to 306 contracts a little more than a minute later and waited another twenty three minutes (13:00:30) to reduce to 207 contracts. It wasn't until the pit closed at 13:15 that he

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reduced his position to 22 contracts, approximately the same as before the large order execution. If he did not intend to be executed he would have sold the entire executed order within a minute or two. Traders typically get out a trade immediately after an error or order that is not wanted. Moncada did not do this but instead he sat with 306 contracts for almost twenty three minutes where every tick was $3825 and each one cent move was $15,300. Then he reduced his position to 207 contracts which he held for fourteen minutes where every tick was $2587.50 and each one cent move was $10,350. It wasn't until the pit close, 38 minutes later, that he finally liquidated the large order. Clearly Moncada intended to be executed on this large order and took market risk.

On October 6, 2009 (a relevant date) Moncada bought 200 contracts at 9:30:00 and his additional buying and selling resulted in an increase in his position to 239 contracts at 9:38:38. It wasn't until 10:20:10 that he got out of his net long position. By holding a net long position for 50 minutes indicates intent to be executed.

On October 27, 2009 (a relevant date) Moncada bought 202 contracts at 10:10:22 increasing his long position to 429 contracts where every tick is $5362.50 and every one cent move is $21,450. It wasn't until 12:53:26 that he exited the 202 extra contracts. Clearly, taking two hours forty three minutes to get out of an order indicates intent to be executed.

C. Relevant Dates Detailed in Complaint

October 29, 2009 (Complaint pg. 9)

Prior to the trades referred to in the Complaint, by 10:23:42 Moncada had accumulated a net long position of 144 contracts. Immediately thereafter, at 10:23:45 he entered and cancelled a buy order for 402 contracts, then at 10:27:28 entered and cancelled another buy order for 500 contracts and at 10:29:00 entered and cancelled a third buy order for 500 contracts. Yet after canceling the three orders, Moncada added to his long position at 10:33:19 -10:33:21 by buying 25 contracts bringing his position to long 169 contracts. Since Moncada added to his long

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position after canceling three large buy orders, he obviously was not trying to induce selling as he must have thought the market was going higher.

He then entered and cancelled six large buy orders prior to selling the 66 contracts. Moncada was selling the contracts only one or two ticks better than the price bid on his large orders. The large buy orders had little or no effect. Rather than arguing he was manipulating the market to sell on the offer side, the more logical explanation is that he thought the market was no longer going higher and was reducing his long position and exposure to risk.

<u>October 27, 2009 (Complaint pg. 11)</u>

Prior to the trades in question, Moncada started to accumulate a short position at 9:31:00 totaling 350 contracts by 9:33:55. These positions were accumulated at prices ranging from 517.50 to 525.75 of which 289 contracts were from 517.50 to 521.0. During this period at 9:32:42 and 9:32:57 he entered and cancelled two large sell orders at the offer price of 521. In 0.823 seconds after the second cancellation the market rallied above 521 at which time Moncada sold another 66 contracts at prices ranging from 524.75 to 525.75 increasing his losing short position to 350 contracts. Thus his cancellation allowed him to add to his position at a higher price. This clearly shows that the entering of large sell orders does not necessarily result in lower prices (i.e. no power to manipulate) and that Moncada intended to increase his short position.

Then as set forth in the complaint he bought 42 contracts at prices from 521.75 to 523 leaving him with a position of short 303 contracts in which was losing money. To say in the complaint that he was manipulating the market to cover at a profit 2-8 ticks lower from a sale made a few seconds earlier when he was short 363 contracts, most of which were at lower prices, is not how a trader would look at this trade. Why not say that Moncada was covering his early sales from 517.50 to 518.25 for a loss of 17 to 19 ticks per contract? The totality of the position must be taken into consideration. That is how a trader thinks. Moncada was doing what many traders do when faced with a losing position. Cover some of your position to reduce the loss and reduce exposure to further loss. The market had rallied against him on his previous large cancelled sell orders and there was no reason to say that it wouldn't continue to do so. It is my opinion that he

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was trying to cover a portion of his losing position, not manipulate the market for a few ticks when he is losing money on a large position.

After buying the 42 contracts, Moncada started selling again increasing his position at 9:36:35 to 363 contracts. During this period Moncada entered and cancelled the first two of 5 large sell orders at the offer price of 524 and 523.75, respectively, which was above his sales prices of 523.75 and 523.50. He was using large sell orders while increasing his short position at lower prices. He was not using the large sell orders to buy lower. He finally covered his remaining 321 contracts at a loss between 9:38:15 and 9:42:50 at prices from 521.75 to 526.25.

D. Other Relevant Dates

October 26, 2009

In Bes Capital, Moncada was long 236 contracts at 10:10:33 when he entered an order to buy 500 at 538 and immediately sold 5 contracts at 538.25 while the buy order was still active. He then cancelled the buy order and sold 5 more contracts, 4 at 538.50 and 1 at 538.75. By starting to sell on the offer side before cancelling the large order, Moncada was at risk on 500 contracts just to try to make 1 tick. Traders often bid and offer 1 tick apart and are willing to take either side because they believe that they have an edge by either buying on the bid or selling on the offer. This is especially true if they feel that the market is going sideways. To do so with a large buy order and small sell order Moncada was putting himself at risk.

In the Serdika account at 11:54:45 he offered to sell 500 contracts at 530.50 and then bought 33 contracts at 530.25 before cancelling his large sell order. This is a form of scalping and not intent to manipulate. He was willing to risk being filled on 500 contracts in order to make 1 tick on 33 contracts. This is a common scalping technique among traders who make a two way market. The fact that the offer is larger than the buys may indicate a trader's bias but he is making a market and taking risk.

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October 12, 2009

Moncada was long 131 contracts at 9:45:13 when he entered and cancelled a large order to buy 500 contracts at 484.50. Then at 9:45:31 to 9:45:35 he sold 11 contracts at 484.50. Again, Moncada may have anticipated that the market was not be going higher and decided to liquidate a portion of his long position. This is not manipulating the market when the market didn't move.

October 6, 2009

At 10:01:49 Moncada, who was long 130 contracts, entered an order to buy 425 contracts at 462.25 and 0.02 seconds later entered another order to buy 225 contracts at 462.50. While both orders were still active, he bought 40 contracts at 463. He then cancelled the large buy orders leaving him with a long position of 170 contracts. Here he was using large orders to add to his position.

At 10:02:29 he sold 4 contracts at 463 and immediately thereafter entered an order to buy 325 contracts at 462.75 and then immediately sold 11 contracts at 463 before deleting the buy order. He then sold another 5 contracts at 463 before entering and cancelling an order to buy 500 at 462.75. He then sold another 10 contracts at 463.

The net result was Moncada scratched his trade of 40 contracts at 463 using only large buy orders and taking risk when some of his sells occurred while his large buy order was still active. This is not manipulation with the intent to push the market higher.

October 14, 19 and 30, 2009

I do not have sufficient data at this time and reserve the right to amend this report upon receiving the data.

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E. Moncada's Canceled Orders Did Not Increase Market Volatility and Did Not Adversely Affect the Wheat Futures Market

Time and Sales for the relevant dates does not indicate any increased volatility during the period of his large cancelled orders to the time of the executed smaller trades.

1. October 6, 2009.

From 10:00:00 to 10:01:03 Time and Sales shows a range in CBOT December wheat of 462 to 463. At 10:01:03 Moncada entered the first of 4 large buy orders at prices of 462 to 462.50 of which he cancelled only the first two orders prior to purchasing 40 contracts at 463, the last at 10:01:55:83. Subsequently by 10:02:04 Moncada deleted the other two large buy orders and entered and cancelled another buy order.

At 10:02:29 Moncada sold 4 contracts at 463 and at 10:02:31:214 entered an order to buy 325 contracts at 462.75 and less than 0.032 seconds later sold 11 contracts at 463. He then deleted the order, sold 5 more contracts at 463. At 10:02:36 he entered and cancelled another large buy order for 500 contracts at 462.75 before selling another 10 contracts at 463, the last at 10:02:46.

Moncada's activity had no effect on the volatility where wheat traded in the same range during which he entered his large orders and bought and sold 40 contracts, i.e. 462 to 463.

2. October 12, 2009.

From 9:41:24 to 9:45:12 Moncada entered and cancelled 5 large buy orders at prices of 484.25 and 484.50. During this period Time and Sales shows a one cent range from 483.75 to 484.75. From 9:45:31-37 Moncada sold 11 contracts at 484.50. Subsequently through 9:47 the market traded in a range of 483.75 to 484.50. Moncada's activity had no effect on volatility.

3. October 14, 2009.

From 9:50:30 to 9:52:58 Moncada entered and cancelled 5 large buy orders at decreasing prices 522.50, 522 and 521.75 in which he bought 5 contracts on the last order at 521.75. At 9:53:00 he sold 5 more contracts at 522 and then entered a large buy order at 522 and while it was open sold 2 contracts at 522. He then cancelled the large buy order and at 9:53:43 sold 12 contracts at prices ranging from 522.25 to 523.25. Moncada then entered and cancelled two large buy orders at prices of 522.75 and 522.50. After the cancellation at 9:54:19-26 he sold 17 contracts at prices from 523.25 to 524.

From 9:50:30 the time of the first large buy order to the last sales at 9:54:26, Time and Sales indicates a range of 3.25 cents with the market moving in 1 tick increments. This range is not excessive volatility.

4. October 19, 2009.

   At 9:32:19-28 Moncada entered and cancelled two large buy orders, the first at a price of 509.75 and the second at 509.25 in which he got filled on 2 contracts. At 9:32:35 he sold 2 contracts at 509.25. From 9:30 to 9:33 the market had a range of 506.25 to 509.50 and then from 9:33 to 9:34 the market range was 504.50 to 508.50.

   This illustrates that the market did not move up Moncada's large buy orders. The sell off was orderly and moved in one tick increments.

5. October 26, 2009.

   At 10:10:00 in Bes Capital account Moncada entered three large buy orders, the first two at the price of 537.75 and the third at 538. Prior to cancelling the third order, at 10:10:33 he sold 5 contracts at 538.25. He then cancelled the third large order and at 10:10:42 he entered and cancelled a large buy order at 538.25. He then sold 6 contracts, 5 at 538.50 and 1 at 538.75. From 10:08 to 10:15 the price range was 536.50 to 539, not excessive over a 7 minute period.

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Later at 11:54 in the Serdika account, Moncada entered a large sell order for 500 contracts at 530.50. While that order was open, he bought 33 contracts at 530.25 and then cancelled the large sell order. From 11:50 to 11:56 the price range was 530 to 532 indicating no volatility.

6. October 27, 2009.

From 9:36:09 through 9:38:01 Moncada sold 55 contracts of which 53 were at 523.50 and 2 at 523.75 and then bought 42 contracts from 521.75 to 5.23. This price range occurred at one tick increments and does not reflect increased volatility.

7. October 29, 2009

From 10:33:19 to 10:39:30 Moncada bought 25 contracts and sold 42 contracts. From 10:30 to 10:42, the market traded in a range from 506 to 508.75 that does not reflect any increased volatility despite Moncada entering and cancelling 8 large buy orders and 2 large sell orders.

8. October 30, 2009

At 9:56 Moncada cancelled a large buy order at 499.25 and then sold 5 contracts at 500 to 500.50. The price range from 9:56 to 9:60 was 498.75 to 500.50 indicating a lack of volatility.

III. SUMMARY

The entry of more large cancelled orders than other market participants does not, in and of itself, prove intent to manipulate the market. What is important is whether the trader was taking market risk and using large orders as part of a trading strategy.

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Moncada took market risk including the possibility of having his large orders filled since he entered and cancelled those orders manually rather than using a computer algorithm. He had large positions in the market, traded thousands of contracts daily and took overnight positions. At times his large orders were active while he was trading in the opposite direction of his large order. At times he was adding to his position in the same direction as his large orders and increasing his risk. His style of trading differed from the other traders who cancelled large orders less frequently. Further, Moncada's active trading style at times may have necessitated having priority on his orders. This would require frequent cancellations due to the CME's Globex matching algorithms that gave priority to only 100 contracts on a large order.

When executed on his large orders he did not immediately exit but instead held the contracts for a period of time. This certainly is indicative of his willingness to be executed on a large order. His large orders could have been testing the strength or weakness of the market. If a trader senses the market may move up or down, he might enter a large order hoping to get filled immediately to catch the movement in the market. If not filled immediately, then cancellation would be prudent since the moment may have passed. The trader could then reassess the market. To have an open large order after not being filled immediately might expose a trader to undue market risk.

The market did not exhibit any significant increase in volatility as a result of large cancelled orders. The market traded in one tick increments and many of the trades on the opposite side of the large cancelled orders were executed one tick from the bid or offer of the large order. This is evidence of an orderly market where the bid and ask spread did not widen.

Respectfully submitted September 27, 2013

Steven E. Wollack

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